

MAIL STOP INTERFERENCE  
ALEXANDRIA VA 22313-1450  
Tel: 703-308-9797  
Fax: 703-305-0942

Paper 1

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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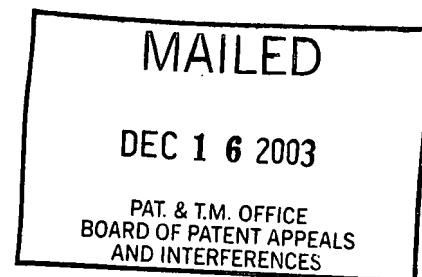
Patent Interference No. 105,171

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UNIVERSITY OF IOWA RESEARCH FOUNDATION,  
COLEY PHARMACEUTICAL GROUP, INC., and  
THE UNITED STATES OF AMERICA, as represented by the Department of Health and  
Human Services  
(6,207,646 B1),  
Junior Party,

v.

THE REGENTS OF  
THE UNIVERSITY OF CALIFORNIA  
(09/265,191),  
Senior Party.



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NOTICE DECLARING INTERFERENCE  
(37 CFR § 1.611)

**A. Declaration of interference**

An interference is declared (35 U.S.C. 135(a)) between the captioned parties. Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F of this NOTICE.

**B. Administrative patent judge assigned to administer the interference**

The interference has been assigned to Administrative Patent Judge Richard Torczon. 37 CFR § 1.610.

**C. Standing order**

A copy of the Trial Section STANDING ORDER (Paper 2) accompanies this NOTICE. The STANDING ORDER applies to this interference.

**D. Conference call to set dates**

A telephone conference call to set dates for action in this interference is scheduled for **2 p.m. (Eastern) on 17 February 2004**. (The Board will initiate the call.)

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a sample order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE. Counsel are encouraged to discuss the order by telephone prior to the telephone conference call and to reach an agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine months. Counsel should be prepared to justify any request for a shorter or longer period.

The Board is conducting a pilot program in electronic filing of interference papers. The procedure is explained in University of New Mexico v. Fordham Univ., No. 104,761 (2001) (<http://www.uspto.gov/web/offices/dcom/bpai/its/104761-021.pdf>). Counsel should be prepared to discuss participation in the pilot program.

**E. The parties to this interference**

Junior Party

**Inventors:** Arthur M. Krieg and Joel N. Kline, both of Iowa City, Iowa; and Dennis Klinman and Alfred D. Steinberg, both of Potomac, Maryland

**Patent:** 6,207,646 B1 ["646"], issued 27 March 2001  
(08/738,652, filed 30 October 1996)

**Title:** Immunostimulatory nucleic acid molecules

**§102(g) benefit:** None

**Assignee:** University of Iowa Research Foundation, Coley Pharmaceutical Group, Inc., and the United States of America, as represented by the Department of Health and Human Services

**Attorneys:** See last page

**Address:** See last page

Senior Party

**Inventors:** Dennis Carson and Eval Raz of Del Mar, and Mark Roman of San Diego, all of California

**Application:** 09/265,191, filed 10 March 1999

**Title:** Recombinant gene expression vectors and methods for use of same to enhance the immune response of a host to an antigen

**§102(g) benefit:** 08/593,554, filed 30 January 1996

**Assignee:** The Regents of the University of California

**Attorneys:** See last page

**Address:** See last page

**F. Count and claims of the parties**

Count 1

The method of 646 claim 3.

The claims of the parties are:

Iowa: 1-39  
California: 205<sup>1</sup>

The claims corresponding to Count 1:

Iowa: 3, 6, 11, 12, 14, 17, 18, 21, 22, 25-27, 30, 31, 37, and 38  
California: 205

The claims not corresponding to Count 1:

Iowa: 1, 2, 4, 5, 7-10, 13, 15, 16, 19, 20, 23, 24, 28, 29, 32-36, and 39  
California: None

**G. Heading to be used on papers**

Addendum 1 provides the heading that shall be used on all papers filed in the interference. See STANDING ORDER ¶ 3.5.

**H. Summary of dates for taking action**

Addendum 2 provides a summary of dates and times for taking action set in the STANDING ORDER.

**I. Order form for requesting file copies**

Addendum 3 provides an order form for requesting file copies. Use of the form will expedite the processing of your request.

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<sup>1</sup> 205. A method for suppressing an allergic response to an antigen in a mammal susceptible to an allergic reaction to said antigen which stimulates production of allergy-associated IgE antibodies in the mammal, comprising parenterally co-administering to the mammal  
(a) an effective amount of an immunostimulatory nucleic acid in a plasmid, said immunostimulatory nucleic acid comprising 5'CG3', wherein C is unmethylated, and  
(b) an effective amount of the antigen provided as the antigen *per se* or as a polynucleotide encoding the antigen.

**J. Notice of intent to publish**

In the event that this proceeding should result in a decision or order that the Board believes would be of interest to the public, the decision or order will be published without redaction unless, within sixty days of the entry date of this notice of declaration a party files as a separate paper a notice that specifically identifies information in its application that is not already publicly available that would warrant redaction.

If, after filing such notice, specifically identified information becomes publicly available (for example, through publication of a collateral application), the party shall promptly notify the Board of this change in the status of the information.

The parties are reminded that, in any case, at the end of the proceeding all of the information in the proceeding may be publicly available pursuant to 37 CFR § 1.11(e).

  
RICHARD TORCZON  
Administrative Patent Judge

**Enclosures:**

- Copy of STANDING ORDER (Paper 2)
- Copy of order used for setting times for taking action in the preliminary motion phase of the interference
- Copy of order used for setting times for taking action in the priority phase of the interference

cc (via overnight carrier):

For University of Iowa Research Foundation, Coley Pharmaceutical Group, Inc., and  
the United States of America, as represented by the Department of Health and  
Human Services:

**Helen C. Lockhart**

WOLF, GREENFIELD & SACKS, PC

600 ATLANTIC PLZ

BOSTON MA 02210-2211

Tel: 617-720-3500

Fax: 617-720-2441

For the Regents of the University of California:

**R. Danny Huntington**

BURNS, DOANE, SWECKER & MATHIS LLP

1737 KING ST STE 500

ALEXANDRIA, VIRGINIA 22314-2727<sup>2</sup>

Tel: 703-836-6620

Fax: 703-836-2021

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<sup>2</sup> Also, PO Box 1404, Alexandria Va 22313-1404.

Interference No. 105,171  
Univ. of Iowa Res. Found. et al. v. Univ. of California

Paper 1  
Page 7

**ADDENDUM 1**

Filed on behalf of: Party \_\_\_\_\_  
By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and ZIP Code  
Tel:  
Fax:

Paper No. \_\_\_\_\_<sup>3</sup>

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Torczon)**

**UNIVERSITY OF IOWA RESEARCH FOUNDATION,  
COLEY PHARMACEUTICAL GROUP, INC., and  
THE UNITED STATES OF AMERICA, as represented by the Department of Health and  
Human Services  
(6,207,646 B1),  
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**THE REGENTS OF  
THE UNIVERSITY OF CALIFORNIA  
(09/265,191),  
Senior Party.**

**Patent Interference No. 105,171**

**TITLE OF PAPER**

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<sup>3</sup> Leave blank for the Board to insert the paper number when the paper is entered into the administrative record.

**ADDENDUM 2**

**SUMMARY OF DATES FOR TAKING ACTION**

Dates and times for taking action are set in the following paragraphs of the

**STANDING ORDER:**

<u>Date</u>	<u>Paragraph</u>
Identifying lead and backup counsel .....	¶ 4
Identifying any real party in interest .....	¶ 5
Requesting copies of involved and benefit applications and patents .....	¶ 6
Accomplishing certain discovery .....	¶ 7
Filing clean copy of claims .....	¶ 8
Filing clean copy of claims in cases with drawings or claims containing a means-plus-function limitation .....	¶ 9
Filing list of proposed preliminary motions .....	¶ 10
Filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions .....	¶ 13.10.2
Objecting to admissibility of evidence .....	¶ 14.1.1
Serving supplemental affidavits or evidence to respond to objection to admissibility of evidence .....	¶ 14.2
When cross-examination can take place .....	¶ 14.3
Taking action with respect to settlement discussions .....	¶ 15.2



**ADDENDUM 3**

**FILE COPY REQUEST**  
Patent Interference No. 105,171

Attach a copy of section E of this NOTICE to this REQUEST. On the copy, circle each patent and application that you are requesting.

Include the following information to facilitate processing of this REQUEST:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box because file copies are sent by commercial overnight courier).  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_
3. Telephone, including area code: \_\_\_\_\_

## INTERFERENCE DIGEST

Interference No. 105,171

Paper No. 46

Name: Dennis A. Carson et al.

Serial No.: 09/265,191

Patent No.

Title: Recombinant gene expression vectors and methods for use of same to enhance the immune response of a host to an antigen

Filed: 03/10/99

Interference with Krieg et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_

### FINAL DECISION

Board of Patent Appeals and Interferences, Adverse Dated, 3-18-05

\_\_\_\_\_  
Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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\_\_\_\_\_  
\_\_\_\_\_

This should be placed in each application or patent involved in interference in addition to the interference letters.